HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1183 (S/S) of 2003

Veer Pal Sharma aged about 49 years,
S/o Sri Nathu Lal Sharma,
R/o Village Kjupupur Post-Simirya Rampur,
District Shahjahanpur.

.....Petitioner

Versus

1. Secretary, Irrigation Department, Dehradun, Uttaranchal.
2. Engineer-in-Chief, Irrigation Department, Dehradun, Uttaranchal.
3. Superintending Engineer, Nalkoop Khand, Haldwani, District Nainital.
4. Chief Engineer, Nalkoop Khand, Irrigation Department, Dehradun, Uttaranchal

.....Respondents

Sri M.S. Bisht, counsel for the petitioner
Standing Counsel for the respondents

Dated: 18.8.2006

Hon'ble Rajesh Tandon, J.

Heard Sri M.S. Bisht, Advocate for the petitioner and Standing counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to appoint the petitioner on the post of Siench Parvaryavekshak from the date when the junior to the petitioner has been appointed.

Briefly stated, the petitioner was initially appointed on 1.5.1977 on the post of Rig Assistant on work charge basis. However, he has stated that he is working as Siench Pal in the Nalkook Khand, Haldwani in the

regular establishment. Thereafter, in the year 1983, the petitioner was posted at Nalkoop Khand, Haldwani and since then he is discharging his duties.

The petitioner has submitted that he has also completed Siench Parvaryavekshak training.

At the time of filing of the writ petition, following interim order was passed on 1.10.2003:

> *"Heard.*
>
> *Admit.*
>
> *Notices on behalf of the respondents have been accepted by learned standing counsel, who prays for and is allowed three weeks time to file counter affidavit. Thereafter the petitioner may filed rejoinder affidavit within a period of two weeks.*
>
> *List there after for final hearing.*
>
> *In the meantime it is provided that if the "Siench Pals" who have completed their training as "Siench Supervisor" and have been promoted (who are junior to the petitioner) the case of the petitioner shall also be considered for promotion within a period of 10 days from the date of production of a certified copy of this order."*

Petitioner has informed that nothing has been heard since then.

A counter affidavit has been filed on behalf of the respondents. In paragraphs 2, 4, 6 and 7 of the said counter affidavit, it has been stated as under:

> *"2. That in compliance of the interim order passed by this Hon'ble Court, it is submitted that no any person junior to the petitioner has been promoted. However, the case of the petitioner was considered by the Executive Engineer and after due consideration, it was revealed that there is no sanctioned post of Sinch Paryavekshak (Sinch Supervisor) is vacant in any division as such the petitioner cannot be promoted to the post of Sinch Paryavekshak (Sinch Supervisor). True photocopy of the order dated 24.4.2004 of the Executive Engineer is being annexed herewith and marked as* ***Annexure no. CA-1*** *to this affidavit.*
>
> *4. That the contents of para 2 of the writ petition are not admitted and denied. However, it is submitted that there is no vacant sanctioned post of Sinch Paryavekshak (Sinch Supervisor) as such regular appointment on such post cannot be given to the petitioner.*
>
> *6. That the contents of para 7 of the writ petition are not admitted and denied. However, it is submitted that the Annexure 2 to the writ petition is a letter which was sent with the recommendation for giving training to the petitioner of Sinch Paryavekshak (Sinch Supervisor).*

7. That the contents of para 8 of the writ petition are not admitted as stated by the petitioner. However, the representation was made by the petitioner and after considering the representation of the petitioner it was revealed that the petitioner could not get merit quality posts in the training that of other candidates, who were appointed in the regular post of Sinch Paryavekshak (Sinch Supervisor). The appointment can only be done for the post which were lying vacant and appointments can only be made according to the seniority on the merit quality points."

In view of the above, the respondents are directed to consider the case of the petitioner as and when the vacancy occurs as stated in their counter affidavit.

Subject to the aforesaid observations, the writ petition is disposed of. No order as to costs.

Rajesh Tandon, J.

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